

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Customs Valuation

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Checklist of Issues

Addendum

NEW ZEALAND

At its meeting held on 5 May 1981, the Committee on Customs Valuation decided, inter alia, that Parties should reply in writing to the points contained in the revised checklist of issues relating to national legislation on customs valuation (VAL/2/Rev.1).

The reply submitted by the delegation of New Zealand is reproduced hereunder.

1 (a) (i) Are sales between related persons subject to special provisions?

The provisions in the Agreement for dealing with sales between related persons are incorporated in a new Ninth Schedule to the Customs Act 1966 and in Regulations 64 B and 64 C of the Customs Regulations 1968 Amendment No. 20. These provisions were brought into effect by the Customs Amendment Act 1981 which was enacted for the purpose of implementing the Agreement on Customs Valuation.

In addition, a definition for "members of the same family" has been provided in Clause 1(3) of the Ninth Schedule, consistent with other taxation legislation in New Zealand.

1 (a) (ii) Is the fact of inter-company prices prima facie considered as grounds for regarding the respective prices as being influenced?

Inter-company prices are not automatically regarded as having been influenced by the relationship (Clause 2 (3) of the Ninth Schedule to the Customs Act.

1 (a) (iii) What is the provision for giving the communication of the aforementioned grounds in writing if the importer so requests?
[Article 1.2 (a)]

This provision is contained in Clause 2 (3) of the Ninth Schedule to the Customs Act.

1 (a) (iv) How has Article 1.2 (b) been implemented?

This provision is contained in Clause 2 (2) of the Ninth Schedule to the Customs Act and Regulation 64 B of the Customs Regulations 1968 Amendment No. 20.

1 (b) Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?

Separate provisions for refund or remission of duty on goods damaged or lost are contained in sections 173 to 175 of the Customs Act 1966 and Regulations 88 to 91 of the Customs Regulations 1968.

2 How have the provisions of Article 4 to allow the importer an option to reverse the order of application of Articles 5 and 6 been implemented?

This provision is contained in Clause 2 (5) of the Ninth Schedule to the Customs Act.

3 How has Article 5.2 been implemented?

This provision is contained in Clause 6 of the Ninth Schedule to the Customs Act and in Regulation 64 D of the Customs Regulations 1968 Amendment No. 20.

4 How has Article 6.2 been implemented?

New Zealand Customs legislation fully accords with the requirements of Article 6.2.

5 (a) What provisions have been made for making value determinations pursuant to Article 7?

These provisions are contained in Clause 8 of the Ninth Schedule to the Customs Act.

5 (b) What is the provision for informing the importer of the Customs value determined under Article 7?

This provision is contained in Clause 9 of the Ninth Schedule to the Customs Act.

5 (c) Are the prohibitions found in Article 7.2 delineated?

Yes. In Clause 8 of the Ninth Schedule to the Customs Act.

6 How have the options found in Article 3.2 been handled?
In the case of FOB application, are ex-factory prices also accepted?

An FOB system of valuation is applied in the case of transactions based solely on ex-factory prices provision is made for such prices to be accepted as the basis for transaction value.

7 Where is the rate of exchange published as required by Article 9.1?

Rates of exchange are published in the New Zealand Gazette as required by section 143 of the Customs Act.

8 What steps have been taken to ensure confidentiality, as required by Article 10?

The provisions of the Agreement relating to confidentiality are contained in Clause 9 of the Ninth Schedule to the Customs Act.

- 9 (a) What rights of appeal are open to the importer or any other person?

Section 140 of the Customs Act provides for Collectors to consider objections and inform the importer in writing. Section 140 (A) of the Customs Act provides for appeals to the Administrative Division of the High Court against determinations by Collectors.

The question of providing for a Customs Appeal Tribunal in place of the Administrative Division of the High Court is currently under consideration.

- 9 (b) How is he to be informed of his further right of appeal?

Full information on appeal provisions is contained in Public Notices and bulletins. There is no legal provision requiring the Department to inform the appellant of his rights of appeal.

- 10 Provide information on the publication, as required by Article 12, of:

(a) (i) the relevant national laws;

(a) (ii) the regulations concerning the application of the Agreement.

In New Zealand all Acts of Parliament such as the Customs Act 1966, are published by the Government Printer in a compilation called the "New Zealand Statutes".

Similarly, all regulations are published in the compilation called "Statutory Regulations".

- 10 (a) (iii) the judicial decisions and administrative rulings of general application relating to the Agreement.

Judicial decisions of New Zealand Courts are published in the New Zealand Law Reports. Administrative rulings are published in Departmental Bulletins and Notices.

- 10 (a) (iv) general or specific laws being referred to in the rules of implementation or application.

As stated above, all laws that might apply in the interpretation of the Agreement can be found in the above-mentioned publications of Statutes, Regulations or Law Reports.

- 10 (b) Is the publication of further rules anticipated? Which topics would they cover?

No further rules are anticipated at this time.

- 11 (a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?

Provision is contained in sections 58 and 59 of the Customs Act 1966 for the release of goods from Customs control on the making and passing of a Sight entry and on the taking of a suitable security.

- 11 (b) Have additional explanations been laid down?

Yes. In Public Bulletins and Notices.

- 12 (a) Does the respective national legislation contain a provision requiring Customs authorities to give an explanation in writing as to how the Customs value was determined?

This provision is contained in Clause 9 of the Ninth Schedule to the Customs Act.

12 (b) Are there any further regulations concerning an above-mentioned request?

No further regulations have been found necessary.

13 How have the Interpretative Notes of the Agreement been included?

The Interpretative Notes have been included either in the provisions of the Ninth Schedule to the Customs Act or in Regulations 64 B to 64 E of the Customs Regulations.